

Application Serial No. 10/005,052  
December 19, 2005

### REMARKS/ARGUMENTS

For purposes of examination of the RCE application, the claims have been amended as set forth above. In particular, the dependency of claims 4 and 19 have been changed and a potential lack of clear antecedent basis problem has been addressed by amending claim 10. Certainly, no new matter has been added to the application by this preliminary amendment.

In the outstanding Office Action, claims 1-9 and 16-48 have been rejected as being obvious in view of U.S. Patent No. 4,844,924 issued to Stanley and claims 1-3, 6-21, 23-26, 33, 34 and 36-39 stand rejected as being anticipated by General Mills World Patent Publication WO 02/21936. With respect to the Stanley patent, there is absolutely no mention of using ozone to reduce ferulic acid levels. At best, the patent teaches to provide color stability through conventional oxidated bleaching agents, such as peroxide, chlorites, peracids and ozone. To this end, Stanley is not concerned with, nor has disclosure particularly directed to the present invention.

The Examiner clearly acknowledges that Stanley does not disclose numerous claimed features, including the specifically claimed amount of ozone employed or the particular products made in accordance with the invention. Yet, without any specific teaching or motivation in the art, the Examiner holds all of these distinctly claimed features to be obvious. For instance, the Examiner holds that other bran materials beyond those disclosed by Stanley, "including vegetable, cereal and fruit sources can be used... Therefore, it would have been obvious..." The Examiner appears to hold that, simply because other bran materials could possibly be used, that their use would be automatic. In addition, the Examiner has rejected various claimed limitations based on "obvious matter of choice" without proper motivation. Furthermore, it is simply too convenient for the Examiner to simply hold that the specifically claimed amount of ozone is simply obvious without any teaching in the art. In general, it is respectfully submitted that this overall logic does not establish a proper prima facie case of obviousness as required by the MPEP. In particular, the Applicant has clearly

Application Serial No. 10/005,052  
December 19, 2005

demonstrated and referenced the present application to evidence the criticality of the amount of ozone employed (see at least the response filed on August 19, 2005). For instance, it has been disclosed that too little ozone will not reduce the ferulic acid and too much will cause the oxygenation process to be driven so far that the desired vanillin will be destroyed and the resulting bran will have lower levels of vanillin. Given this showing, it is respectfully submitted that any unsubstantiated obviousness-type rejection would be improper.

Based on the arguments previously presented in this case, which are incorporated herein by reference, the new amendments made to the application and the additional arguments set forth above, reconsideration of the application is respectfully requested. In particular, it is requested that the claims be allowed and the application passed to issue.

Respectfully submitted,



Everett G. Diederiks, Jr.  
Attorney for Applicant  
Reg. No. 33,323

Date: December 19, 2005  
**DIEDERIKS & WHITELAW, PLC**  
12471 Dillingham Square, #301  
Woodbridge, VA 22192  
Tel: (703) 583-8300  
Fax: (703) 583-8301